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Attorney for Defendant
CITY OF REDDING, GARRETT MAXWELL, AND
MATTHEW BRUCE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

VERONICA MCLEOD, individually and
as successor in interest to decedent,
DOLORES HERNANDEZ; AMADO
HERNANDEZ; individually and as
successor in interest to decedent,
DOLORES HERNANDEZ; and YSIDRA
REGALDO, individually,

Plaintiff,

v.

CITY OF REDDING; GARRETT
MAXWELL, an individual; MATTHEW
BRUCE, an individual; and DOES 2-10,
inclusive,

Defendants.

Case No. 2:22-cv-00585-WBS-JDP

**DECLARATION OF AMEET D. PATEL IN
SUPPORT OF DEFENDANTS' REPLY IN
SUPPORT OF MOTION FOR SUMMARY
JUDGMENT, OR IN THE ALTERNATIVE,
SUMMARY ADJUDICATION [F.R.C.P. 56]**

Hon. WILLIAM B. SHUBB

Date: June 10, 2024.

Time: 1:30 p.m.

Ctrm: 5

Trial: September 10, 2024

I, Ameet D. Patel, declare as follows:

1. I am an attorney licensed to practice law in the State of California. I am an associate at the law firm of Allen, Glaessner, Hazelwood & Werth LLP, and am counsel of record for defendants City of Redding, Garrett Maxwell and Matthew Bruce (collectively, "Defendants") in this matter.
2. I have personal knowledge of the statements made in this declaration and could competently testify to them if called as a witness.

3. Marked as Exhibit “I” is a true and correct copy of the relevant portion of the deposition transcript of Scott DeFoe, taken on April 12, 2024.
4. Marked as Exhibit “J” is a true and correct copy of the relevant portion of the deposition transcript of Matthew Bruce, taken on April 27, 2023.
5. Marked as Exhibit “K” is a true and correct copy of the relevant portion of the deposition transcript of Aiden Phillips, taken on February 15, 2024.
6. Marked as Exhibit “L” is a true and correct copy of the relevant portion of the deposition transcript of Richard Bell, taken on February 27, 2024.

I swear under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my own personal knowledge. Signed this 28th day of May 2024 in the City of Dublin, California.

Respectfully submitted,

Dated: May 28, 2024

ALLEN, GLAESSNER,
HAZELWOOD & WERTH, LLP

By: /s/ AMEET D. PATEL
AMEET D. PATEL, Declarant

EXHIBIT “I”

Transcript of the Testimony of:

SCOTT A. DEFOE

MCLEOD, et al.

VS.

CITY OF REDDING, et al.

April 12, 2024

Volume I



I M A G I N E
R E P O R T I N G

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

VERONICA MCLEOD,)	
individually and as)	
successor in interest to)	
decedent, DOLORES)	
HERNANDEZ; AMADO)	CASE NO.
HERNANADEZ; individually)	2:22-cv-00585-WBS-JDP
and as successor in)	
interest to decedent,)	
DOLORES HERNANDEZ; and)	
YSIDRA REGALDO,)	
individually,,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
CITY OF REDDING; GARRETT)	
MAXWELL, an individual;)	
MATTHEW BRUCE, an)	
individual; and DOES 2-10,)	
inclusive,,)	
)	
Defendants.)	
_____)	

REMOTE DEPOSITION OF SCOTT A. DeFOE

April 12, 2024

REPORTED BY: ASHLEY L. PROXMIRE, CSR
License No. 13664

Scott A. DeFoe

April 12, 2024

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

VERONICA MCLEOD,)
individually and as)
successor in interest to)
decedent, DOLORES)
HERNANDEZ; AMADO) CASE NO.
HERNANADEZ; individually) 2:22-cv-00585-WBS-JDP
and as successor in)
interest to decedent,)
DOLORES HERNANDEZ; and)
YSIDRA REGALDO,)
individually,,)
)
Plaintiffs,)
)
vs.)
)
CITY OF REDDING; GARRETT)
MAXWELL, an individual;)
MATTHEW BRUCE, an)
individual; and DOES 2-10,)
inclusive,,)
)
Defendants.)
_____)

REMOTE DEPOSITION OF SCOTT A. DeFOE,
taken via Zoom videoconference, on Friday, April 12,
2024, at 9:02 a.m., before Ashley L. Proxmire, Certified
Shorthand Reporter, License No. 13664, in and for the
State of California.

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1 A. No, that's fine. The 2024 fee schedule is 450
2 per hour for review, 550 per hour for depositions and
3 trial testimony.

4 Q. Right. And you charge just a minimum. Is that
5 correct?

6 A. Yes.

7 Q. And what is the minimum?

8 A. 1,650 for deposition.

9 Q. And is that to include -- so if I do this in
10 two hours, are you going to give us a refund?

11 A. I can.

12 Q. Okay. I work for public entities; I have to
13 ask those questions.

14 A. Sure. I understand.

15 Q. Have you spoken with any of the witnesses in
16 this case?

17 A. I have not.

18 Q. All right. In your report -- and I'm going to
19 just -- if you want to follow along, we are just going
20 to go through the report as you go, just to take care of
21 my checklist.

22 Have you spoken with Deirdre Amaro, the
23 forensic pathologist?

24 A. No.

25 Q. Have you reviewed her autopsy report, forensic

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1 report?

2 A. I don't believe I have.

3 Q. You don't hold yourself out as a -- as an
4 expert in forensic pathology, do you?

5 A. Do not.

6 Q. Okay. Any opinions that you might render that
7 relate back to this, whether it is now or how it comes
8 up in trial, would that be really reliant upon what she
9 finds in it?

10 A. No, it has no bearing at all. I'm not offering
11 any medical opinions.

12 Q. All right. How about trajectory opinions,
13 anything of that nature?

14 A. No, sir.

15 Q. Captain Snyder of the fire department, captain
16 of Engine 5, he is listed as a nonretained expert in the
17 disclosure. And I should -- I want to clear something
18 up. I'm reading from the disclosure that was made by
19 Mr. Galipo's office.

20 Dr. Amaro is disclosed as a nonretained expert.
21 That is not part of your report, but I'm asking that
22 question. You cleared it up. With respect to Captain
23 Snyder of the Redding Fire Department, are you familiar
24 with that name?

25 A. I'm not.

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1 You are familiar with the Monell --

2 A. Yes.

3 Q. -- liability. For the Monell component, is
4 there anything in their POST profiles that suggest to
5 you or support a -- an opinion on your part that the
6 Redding Police Department was not training them to
7 recognize people suffering from a mental health crisis?

8 A. Nothing specific other than what my
9 observations were based on the officers' actions.

10 Q. Okay. You cannot point to anything that the
11 City of Redding was failing to do in training the
12 officers to recognize someone in a mental health crisis?

13 A. Based on the material I reviewed, correct.

14 Q. With regard then -- and I'm trying to parse out
15 what's opinion and -- what's basis for your opinion on
16 the one, but I need to question you on that. At the
17 point in time -- let me go on.

18 Midway through your Opinion Number 1, second
19 paragraph that says: These correct and reasonable
20 methods are recognizing cues and other indicators in
21 order to make appropriate decisions regarding
22 intervention strategies.

23 That is in reference to cues they should be
24 looking for in order to intervene with somebody in a
25 mental health crisis?

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1 A. Yes.

2 Q. All right. And that's what is the murderers,
3 profanities, rolling her window up, lack of cooperation,
4 appearing -- did not appear right or some words to that
5 effect. Is that correct?

6 A. That and the reason for the call regarding her
7 actions inside the location.

8 Q. Okay. And in order to make appropriate
9 decisions regarding intervention, they decided not to
10 intervene beyond letting her go because the security
11 guard did not want to sign a citizen's arrest. If I
12 understood correctly, is that decision something you
13 were critical of?

14 A. No, I don't believe there was reasonable
15 suspicion to detain her for any type of crime connecting
16 her to any criminal activity.

17 Q. Okay. You are familiar with the 5150 Welfare
18 and Institutions Code, correct?

19 A. Correct.

20 Q. And law enforcement is taught, in all your
21 training and experience as well, that in order to detain
22 somebody for a 5150, they have to have probable cause to
23 do so. Is that correct?

24 A. Correct.

25 Q. Because in fact a detention under 5150 is going

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1 to deny the person's liberty until such time as --
2 sorry, a psychiatric evaluation is done, which could be
3 up to 72 hours, correct?

4 A. Correct.

5 Q. And based on the facts as you understand them
6 and the time of interaction from the arrival of Bruce at
7 her window to the time that she started to drive out of
8 the parking space, was there any probable cause based on
9 a 5150 Welfare and Institutions Code violation of her
10 posing a threat to herself or others present?

11 A. At that point, no.

12 Q. Okay. And did I correctly frame what the
13 Welfare and Institutions Code violation is? In other
14 words, can you tell me your understanding of what the
15 probable cause is to take somebody and ask them to be
16 evaluated under Welfare and Institutions Code 5150?

17 A. Yes. There's three factors, mentioned two of
18 them: danger to self, danger to others, or gravely
19 disabled.

20 Q. And at least at the point in time she started
21 to reverse initially, none of those factors were
22 present. Am I correct?

23 A. Based on -- based on the information that they
24 knew at the time, correct.

25 Q. Right. And from the standpoint of a reasonable

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1 believe there is any reason for them to stand in the
2 proximity of the vehicle for their own safety.

3 Q. All right. You are not an accident
4 reconstruction expert, are you?

5 A. No.

6 Q. Okay. And in your time in law enforcement, did
7 you take accident reports?

8 A. Yes.

9 Q. Were you ever sworn as an expert witness in any
10 traffic investigation where someone was being prosecuted
11 or civilly sued and you were the person who took that
12 accident report?

13 A. Other than testifying in trial like a DUI case
14 or something like that as the individual who took the
15 active report, not as a hired or retained expert in any
16 matter.

17 Q. Right. Your expertise in that case would have
18 been either as arresting officer and the probable cause
19 for the DUI, or perhaps have you testified in criminal
20 trials as an expert on someone manifesting signs of
21 driving under the influence?

22 A. Yes. I'm a former drug recognition expert with
23 the LAPD.

24 Q. Right. And on that point, there was no
25 indication by any of her mannerisms, even as she starts

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1 backing her car out -- well, there was no indication
2 that you could see in the reporting on this that she was
3 driving under the influence or impaired as she started
4 to drive -- back up from her parking space. Am I
5 correct?

6 A. You could not make that determination until you
7 conducted a field sobriety test or a 12-step drug
8 recognition evaluation.

9 Q. That wasn't done by the officers on this
10 occasion, was there?

11 A. No, sir.

12 Q. And is it your opinion that there was probable
13 cause -- reasonable belief, not probable cause --
14 reasonable belief to have her get out of the car to give
15 her a field sobriety test based on her sitting in the
16 car and using profanities directed at the officer and
17 failing to give them a driver's license?

18 A. No.

19 Q. So there is an empty parking space and --
20 strike that.

21 Have you reviewed the accident reconstruction
22 report prepared by Dr. Rajeev Kelker?

23 A. No.

24 Q. Have you been to the site of the incident?

25 A. No.

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1 Q. Do you have any measurements in mind of the
2 space that she had to negotiate backing out of a parking
3 space and pulling into the lane of traffic to leave the
4 parking lot?

5 A. No.

6 Q. And if someone is standing in an empty parking
7 stall as someone is pulling their car out of the
8 adjacent stall, is that person violating any traffic
9 codes to your understanding?

10 A. No.

11 Q. And if the parking space is empty and the
12 persons, such as the officers that night, are standing
13 in that, are they putting themselves in danger or
14 assuming a risk, at least under the training officers
15 received in the POST Academy and their learning domains,
16 as the car is pulling out of a space adjacent to them?

17 A. Based on the facts in this case, I believe that
18 they put themselves --

19 (Whereupon, the Court Reporter asked for
20 clarification.)

21 THE WITNESS: Based on my review of the facts
22 in this case, they put themselves in a poor tactical
23 position.

24 BY MR. ALLEN:

25 Q. And just so we are clear, it is a poor tactical

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1 decision, in your opinion, that they stood in an empty
2 parking space to watch somebody back out of a parking
3 space to leave whom they did not have any reasonable
4 belief or probable cause to suspect she is mentally ill,
5 she is a danger to herself, or a danger to others. Is
6 that correct?

7 A. Based on the information that they did -- did
8 know at the time, yes.

9 Q. Yes, meaning they didn't have reasonable belief
10 or probable cause to suspect she was a danger to herself
11 or others, right? I want to make sure that I frame that
12 question so we are not confused by the answer.

13 A. Yes. Even though they did not have reasonable
14 suspicion to detain or probable cause to arrest, I still
15 believe the tactics were poor based on her -- her
16 mannerisms, her statements, and the reason why they were
17 called to the location initially.

18 Q. Okay. And you have a very stellar resume, so I
19 know what your experience is. So rather than based on
20 your experience, I'd like to know what, based on your
21 training through your -- the days of your academy
22 through the days of your perishable skills training and
23 all the various classes and training sessions you have
24 attended over your career, can you tell me an instance
25 or a document or a training scenario where officers were

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1 told that if they were to let somebody leave, that
2 they'd left themselves in a poor tactical place by
3 standing in a parking space, and when they begin to walk
4 out, they walk diagonally away from the car that is
5 pulling out while still in that parking space puts them
6 in danger?

7 A. Well, based on my experience -- I don't know if
8 there's a document or directive for specific training on
9 it -- if I reasonably believe that someone may not be --
10 may be mentally ill, may be experiencing a mental
11 crisis, may be acting bizarre based on the individual's
12 mannerisms, I'm not going to stand anywhere where I
13 could be potentially struck by that vehicle, especially
14 after being cussed at, called a murderer, and her
15 refusing, rightfully so, to provide her driver's
16 license.

17 And in addition, the information that they knew
18 that she was causing a disturbance, that a reasonable
19 officer would know there was something going on with
20 Ms. Hernandez, and I would not want to be standing
21 anywhere near that car when she was exiting, or driving
22 out of the parking lot for the fear that -- for one,
23 that she could potentially strike me. Or there is no
24 reason to stand in the parking lot where I can view
25 those actions from the curb just in front of them or

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1 between a barrier and the car and her leaving the
2 parking lot.

3 Q. So where should they have gone to stand?

4 A. Either just to walk towards their -- being that
5 she was backing out, I would walk away from the car, not
6 as the car is backing out towards my police vehicle. I
7 would have walked and stood in front of the pizza
8 location until she had left.

9 You are probably going to need to take a report
10 from the security officer anyway, so you have to go to
11 that point anyway to see if there is a report you may
12 need to take or not. There is no use in standing in the
13 parking lot. I wouldn't walk towards my vehicle at the
14 time because my vehicle is behind her vehicle, and I
15 wouldn't want somehow to be struck as she was backing
16 up.

17 Q. If they look up on the sidewalk and she decides
18 to drive the vehicle forward suddenly, that would put
19 them in jeopardy as well, wouldn't it?

20 A. Potentially, but I think it is the best of the
21 alternatives they had at the time.

22 Q. But the alternatives you're posing are based
23 upon a suspicion, a reasonable belief that she is
24 someone who is dangerous and might be in fact -- drive
25 their vehicle at them regardless of whether they were

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1 walking diagonally away from the direction of the car as
2 it backed out or if they went up on the sidewalk. Isn't
3 that correct?

4 A. Just more so, Counsel, because what Bruce --
5 Officer Bruce had stated about, you know, she was
6 becoming more agitated. There is no doubt that she is
7 not in a right state of mind, not displaying normal
8 behavior.

9 I think separating yourself from the vehicle in
10 the safest manner possible would be the best course of
11 action. Yes, if she drove at you in the front of the
12 pizza place, but that wasn't what she was doing. She
13 was backing up to leave at the time, and putting
14 yourself in proximity of the vehicle that's backing up
15 in any parking lot is not -- not being safe.

16 Q. Okay. So they are walking back out, and at
17 1:28 -- and let me back up. You would -- in looking at
18 this, can you determine the path they were taking as she
19 started to back out?

20 A. No, I couldn't determine. I mean, it seemed
21 like they were walking as the vehicle was backing up
22 alongside of it in the direction in which she was
23 backing up and not towards a position of -- or not
24 towards the restaurant, as I believe they should have
25 been.

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1 Q. Now, there is caution in people that would look
2 at a parking space and decide I won't walk out of that
3 empty parking space if a car is pulling in or pulling
4 out. But in terms -- and we will finish here on this
5 one point.

6 In terms of training, is it your testimony
7 you're unaware of any particular training given to a
8 police officer in any stage in their career that would
9 tell them it is not reasonable actions as a police
10 officer to walk along a car pulling out if you are in an
11 adjacent empty parking space, absent the totality of the
12 circumstances of those things that they knew about at
13 the time?

14 A. No, I can't cite to a specific document or
15 training doctrine or module.

16 Q. Okay. Your opinion is that because Bruce was
17 aware she was the subject of a disturbing the peace
18 investigation and she called him some names and wouldn't
19 cooperate with him, that rose to the level that they
20 didn't act reasonably in walking out of that parking
21 space while she was backing up adjacent to them. Is
22 that the testimony?

23 A. I think it is one -- I think all of that is
24 true, but one part that you missed was the fact that he
25 said her behavior wasn't normal and she was becoming

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1 increasingly agitated while he was attempting to talk to
2 her. So once again, it wasn't just a disturbance. It
3 was how she reacted towards him when he contacted her at
4 the window, which would have created some concern or
5 should have created some concern that she may be
6 experiencing some type of mental health crisis.

7 Nonetheless, I would not want to stand -- it is
8 common sense. I mean, no different if you were in a
9 parking lot at a grocery store and someone is backing
10 out of their spot. You typically don't walk alongside
11 that vehicle. We allow them to back away in the event
12 the person may be elderly, couldn't see us, or whatever.
13 I think it is safe to say a poor decision on the
14 officer's part.

15 Q. Okay. In terms of de-escalation, Officer Bruce
16 reported her behavior, and then he stopped talking to
17 her and he started to -- he stopped talking to her to
18 allow her to go. That is a form of de-escalation,
19 correct?

20 A. It can be, yes.

21 Q. In this case once he stopped talking to her
22 because she started to activate her car, he was letting
23 her go, correct?

24 A. He was.

25 Q. Okay. And at the point that he was letting her

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1 go, there was no manifestation of any other behavior by
2 her to suggest to him she was a danger to him or to
3 Maxwell or to others. Am I correct?

4 A. Other than what I already testified to,
5 correct.

6 Q. Right. Which I'll stop at the point that he --
7 she rolled her window up, looked forward, according to
8 his testimony, and he just stopped directing attention
9 to her. Am I correct?

10 A. I don't know if he stopped directing attention
11 to her. I know there wasn't any conversation at that
12 point.

13 Q. Have you seen any evidence in this case by any
14 reports or any of the witnesses that Officer Bruce did
15 anything more than what he reported he did as he
16 interacted with her?

17 A. No, sir.

18 Q. Okay. So the only evidence we have is that
19 when he asked her for her driver's license or attempted
20 to talk to her, she rolled the window up after calling
21 him names, turned the volume up on her radio, activated
22 her car so that the taillights indicated she was going
23 to back up, and she started backing up. And he didn't
24 have any interaction with her during that time frame
25 until she had nearly struck him. Am I correct?

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1 A. Correct.

2 Q. Okay.

3 THE WITNESS: Can we take five minutes?

4 MR. ALLEN: Absolutely.

5 (Whereupon, a break was taken.)

6 BY MR. ALLEN:

7 Q. And again, what we've done is stop at 1:26, and
8 I just want to go through a few things with you, see if
9 you would agree or disagree.

10 Up until that point, is there any indication
11 that Bruce has not spoken simply or moved slowly?

12 A. Correct.

13 Q. Any indication -- and normally what it comes
14 down to is what you read of his actions up to that point
15 of time. Do you have any criticism of his actions up
16 until that point in time dealing with her, where she now
17 has started to move out and before she first gets close
18 to him as she is moving out, as to his actions directed
19 to her other than he shouldn't have remained in that
20 lane?

21 A. No, sir.

22 Q. All right. At that point, has he acted in a
23 manner that is slow and cautious up until the point that
24 he doesn't get out of the lane?

25 A. No, I don't have any criticisms of any of his

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1 actions or comments or movements other than -- other
2 than just not being away from the car once she decides
3 to back up.

4 Q. All right. So then back up -- your estimates
5 of time on the timeline -- at approximately 1:26, is
6 that the moment in time where Bruce begins to walk out
7 of the lane where he comes in proximity of her car that
8 has been moving out of the lane?

9 A. Well, it is a tough question to ask because he
10 is still at the window close to all the way at 1:30 or
11 even 1:34.

12 Q. All right. So again, we are jumping through
13 timelines. Let's start with 1:26. I have written down
14 Bruce moves towards car. Because you said up through --
15 up through 1:26 -- Bruce had not moved until
16 approximately 1:26. Do I have that correct or
17 incorrect?

18 A. Well, there is some movement. He moved like
19 towards the front quarter panel, but he was still in
20 that area between the window and the front quarter panel
21 of the vehicle at that time. So there was some
22 movement, but he was still in the general area of the
23 driver's side door.

24 Q. All right. So I understand that -- in my
25 review of the video, that he and Maxwell are standing

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1 detained for an investigation of whether she is a danger
2 to herself, others, perhaps even committed an attempted
3 battery on a police officer with her car?

4 A. I still don't believe it rises to the level of
5 a detention for danger to self or others. The issue of
6 intent, was she intending on doing that, I have no way
7 of providing an opinion on that if she turned her wheels
8 in a manner to negotiate to leave the parking lot, which
9 is what I believe she was trying to do, preceding the
10 use of the baton on the window.

11 But once again, I don't know -- I'm not
12 offering legal opinions either if it rose to the level
13 where there would be reasonable suspicion to detain at
14 that point based on what Officer Bruce's perception of
15 what her actions were at the time.

16 Q. All right. So I'm going to parse that out,
17 that last part. You are not offering an opinion on
18 whether or not he had reasonable belief to detain her to
19 investigate whether she was a danger to herself or
20 others based on the objective facts I just listed for
21 you?

22 A. Correct.

23 Q. All right. And your opinion is you do not know
24 whether or not she intended to turn her wheels to get
25 out of the parking space or she turned her wheels to

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1 strike at Officer Bruce. Is that correct?

2 A. Correct. I can't speak to intent.

3 Q. And you are not an accident reconstruction
4 expert and have not analyzed this as to the turning
5 radius of her car to whether or not when she turned her
6 car and then interacted with Officer Bruce in such a way
7 that that turning radius was the proper turning radius
8 to get out of the parking space or in fact was a turning
9 radius that would put her in interaction with Officer
10 Bruce or Officer Maxwell?

11 A. Correct.

12 Q. So at the point in time that Officer Bruce
13 makes a determination that it's necessary to use his
14 baton and strike her car, is it your opinion that it was
15 an improper use of his baton to attempt to break that
16 window and cause her to stop driving the car?

17 A. Yes.

18 Q. And what is the basis of that opinion?

19 A. For one, it was a poor tactical decision
20 because the vehicle still has the ability to move, and
21 if you are reasonably concerned that Ms. Hernandez
22 intended on striking you with the vehicle, the last
23 place you would want to be is anywhere in close
24 proximity to that vehicle. At that point he reasonably
25 believed that, and he should have moved to a position of

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1 in fact should have moved into a position of cover, and
2 then in some form he and Maxwell should have used their
3 vehicles to try and effectuate a stop of Ms. Hernandez.
4 Do I have that correctly?

5 A. Yes. If they formed reasonable suspicion to
6 detain her for potentially attempting to strike Officer
7 Bruce with the vehicle.

8 Q. Okay. And that would be based on the objective
9 facts that they articulated, and that is actually a
10 question of law for the jury using the jury instruction,
11 correct?

12 A. Correct.

13 Q. Now the point in time that he is attempting to
14 break the window, what point in time -- and I have that
15 as 1:34. At what point on the video timeline does it
16 appear he goes to the ground and the vehicle rolls over
17 him, as he has testified?

18 A. The strikes occur at 1:30. The -- it appears
19 that he goes down at the rear of the car, rear quarter
20 panel at 1:34.

21 Q. Okay. In the time from 1:18, when the
22 taillights of the car go on, to 1:34, is there -- do you
23 have any criticism or do you have an opinion that a
24 reasonable police officer or the two police officers
25 present should have formed a tactical plan? Am I

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1 correct?

2 A. That was prior to. If they were going to -- if
3 the decision was they were going to let her go, then
4 they should have just let her go and get out of the way.
5 If the decision was they were going to try to stop her,
6 there should have been a discussion as to what, you
7 know, the -- they were going to do based on the -- my
8 review of the facts, the video in this case.

9 Q. All right. So I'm going to take from 1:18 to
10 1:30, which is when the officers are in the parking lane
11 while the taillights are on and through 1:18, the
12 taillights were on, the officers were down near her car,
13 through 1:30 when Bruce strikes the window.

14 During that time frame, the officers allowed
15 her to leave. Is that right?

16 A. Correct.

17 Q. And you can see on the video that they are
18 engaged in a conversation or -- they are standing there.
19 I can't -- not fair to ask you to speculate about that
20 because I can't tell either, but their testimony is they
21 engaged in a conversation while they are standing next
22 to her car. Do I remember that correctly?

23 A. Yes.

24 Q. And isn't it true that part of that
25 conversation is a reporting of Maxwell to Bruce that the

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1 security guard doesn't want to do anything, Bruce
2 telling Maxwell words to the effect that she was profane
3 towards me and she won't talk to me, and she begins to
4 back out, and they just decide to let her go?

5 A. Correct.

6 Q. And that's a tactical plan on their part at
7 this point, isn't it?

8 A. Partially, yes.

9 Q. Partially. And is the criticism that partially
10 it should have been let's get on the sidewalk and get
11 out of the path?

12 A. Correct.

13 Q. And they failed to do that?

14 A. Yes.

15 Q. Is there anything else about what they failed
16 to do to discuss getting out of her path that you find
17 fell below the standard of a reasonable police officer
18 at the time they are discussing what to do with her and
19 she then decides to start backing out?

20 A. No.

21 Q. All right. At 1:30 -- between 1:30 and 1:34 is
22 the movement of the car where Bruce believes she has
23 attempted to strike him, and he takes out his baton and
24 starts breaking the window. Are you with me?

25 A. I am.

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1 Q. And that is an accurate summary of what we have
2 been talking about?

3 A. It is.

4 Q. And at that point in time, Maxwell is slightly
5 ahead of Bruce walking out of the parking lane as well,
6 correct?

7 A. Correct.

8 Q. Prior to her movement leading to Bruce taking
9 out his ASP, correct?

10 A. Correct.

11 Q. At the point -- during those four seconds, in
12 the actions perceived by Bruce, was there a time in your
13 opinion for the officers to form a tactical plan of what
14 to do once Bruce came to the conclusion she attempted to
15 strike him and he takes his ASP out while Maxwell
16 goes -- takes his knife out runs to the back tire?

17 A. Other than get away from the vehicle -- I would
18 have yelled to my partner to move away from the car.
19 But a tactical plan -- nothing more than get away from
20 the car, based on what I just observed, and advised both
21 officers just to get out of the path of that vehicle,
22 either to the side of it, front of it, or rear of it.
23 Get out of the way.

24 Q. Okay. They -- the failure to form a tactical
25 plan in terms of at least or -- preliminarily anything

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1 else is just get out of the way, and they failed to get
2 back to each other?

3 A. Correct.

4 Q. Do you agree that under the police learning
5 domains, the academy, scenario training, perishable
6 skills, that officers have to make split-second
7 decisions in tense and certainly rapidly evolving
8 situations?

9 A. Yes.

10 Q. And they have to make those decisions under the
11 totality of the circumstances, considering not only the
12 jeopardy to their lives but the jeopardy to others?

13 A. Yes.

14 Q. And officers are trained that indecision can be
15 the greatest detriment to how they perform their jobs on
16 the street?

17 A. Potentially, yes.

18 Q. And that officers are trained to be decisive
19 and use their training and experience in the manner in
20 which they should act under the constraints, again, of
21 their training and experience, including policy on use
22 of force and where it is appropriate?

23 A. Yes.

24 Q. One of the things they are trained is distance
25 covered time, time equals options?

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1 A. Yes.

2 Q. And your criticism is that they should have
3 used distance and cover, but would you agree that their
4 timeline was only four seconds to make that decision?

5 A. Well, once again, distance and cover creates
6 time.

7 Q. Okay. And the time in this case would have
8 been time to allow her to drive out and get to their
9 cars and effectuate a plan to stop her once she is
10 leaving the parking lot?

11 A. Allow her to leave the parking lot, but yes.

12 Q. And the risk in that assessment under the tense
13 and certainly rapidly evolving situation is assuming she
14 is going to leave the parking lot and not bring danger
15 to others in the parking lot by the means in which she
16 drives her car if the officers have perceived her to be
17 a threat to themselves and to others?

18 A. Correct.

19 Q. The -- is it your opinion -- I think it is your
20 opinion, but I just want to confirm this -- that the
21 situation of her moving her car in the direction of
22 Officer Bruce, based on your review of the video, was
23 not active violence and an immediate threat to Officer
24 Bruce or others?

25 A. Correct.

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1 from endangering the officer. Is that correct?

2 A. Yes.

3 Q. That it is better to let a car -- to get out of
4 the way of the car where you can -- rather than get in
5 the way of the car to effectuate the car to stop?

6 A. Correct. Or use a force option to effectuate
7 the car to stop.

8 Q. Right. As opposed to put out a spike strip or
9 chasing a vehicle and a road block where officers get
10 away from the cars and they are trying to stop a fleeing
11 felon of the highest degree, correct?

12 A. Or pursuit intervention technique like a pit
13 maneuver that is coordinated with officers while they
14 are formulating a plan --

15 Q. Okay. But to a vehicle -- your criticism -- if
16 I understand correctly, your criticisms of Officer
17 Maxwell are that he should not have run to the side of
18 the car to puncture the side of her tire, as depicted in
19 the video, because that was putting himself in a
20 position of danger as she's trying to back out?

21 A. Correct.

22 Q. Okay. And can you tell me, is that under the
23 general rubric, you shouldn't get near a car that is
24 moving, or is there some specific learning domain or
25 current policy in the Redding, best practices, POST

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1 perishable skills that says you should not attempt to
2 disable the car from the side by puncturing the wheel
3 because that could put you in danger?

4 A. Well, for one, the officers are taught that you
5 typically don't walk up on a car even for a basic
6 traffic stop. Now this situation, according to Officer
7 Bruce, is transitioned where they are now going to
8 retain her if they reasonably believe that she
9 intentionally tried to strike him with the car. Now
10 that would be a felony vehicle pullover, which would be
11 under the Learning Domain Number 19, which means there
12 are specific tactics that officers should use, none of
13 which are walk up on the car and try to deflate the tire
14 with a knife or to use an ASP or an impact weapon to
15 break a window of the vehicle.

16 Q. There is no training that you can't do it that
17 way, is there?

18 A. I've never read --

19 Q. Or -- I gave you a double negative. I
20 apologize. Let me strike that question.

21 Are you aware of any training that tells an
22 officer they cannot use an ASP to break a window to gain
23 entry to a vehicle to stop or to -- to stop a person
24 from driving?

25 A. No.

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1 it or because he slipped and fell and now the car rolled
2 over his leg.

3 Q. Well, I'll ask the question again. I'm not
4 asking you to determine whether it is intentional or not
5 because you don't know the intent of Ms. Hernandez, as
6 you've testified earlier. I'm asking you: Is the car a
7 lethal threat of great bodily injury or death to Officer
8 Bruce if the car were to run over him before Officer
9 Maxwell stops her?

10 A. The car could be a lethal threat if it was to
11 run over someone, yes.

12 Q. Okay. You agree that we don't know what the
13 intent of Ms. Hernandez was at the time the officers
14 were assessing under the totality of the circumstances
15 their options to detain her and then Officer Maxwell's
16 determination to shoot her?

17 A. Correct.

18 Q. And you have not done any reconstruction
19 analysis as to whether or not the car was in a position
20 to run over Officer Bruce at the moment in time Corporal
21 Maxwell made a determination to fire his gun at her to
22 stop her from driving the car. Is that right?

23 A. Correct.

24 Q. And at that time when Officer Maxwell made the
25 determination to use his gun, the alternatives to the

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1 any other type of felony vehicle pullover if you
2 reasonably believe that her acts were intentional based
3 on the totality of the circumstances.

4 If she left the scene, even if it was
5 unintentional, it would be a felony because it would be
6 a felony hit-and-run of an individual. So felony
7 vehicle pullover tactics would be appropriate based on
8 the totality of the circumstances.

9 But what you can see at 1:40 of the video is --
10 in fact I can see the tire at that point, and I can see
11 the tire is not on Officer Bruce's leg, and Officer
12 Maxwell continues to fire his third through seventh
13 round from his 9 millimeter pistol into the driver
14 compartment of the vehicle when it is clear that the
15 vehicle -- where you can see that the space, the tire is
16 not on Officer Bruce's leg.

17 Q. That wasn't my question, so I will try it a
18 different way. At the point in time that Officer
19 Maxwell had made a determination, which will be judged
20 by a jury as to whether it was reasonable or not, that
21 Officer Maxwell determines that I have to use lethal
22 force -- he has to use lethal force, what other force
23 options did he have to stop Ms. Hernandez from operating
24 her car so that it would not be a lethal weapon causing
25 grave bodily injury or death to Officer Bruce if it ran

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1 over him?

2 A. On his person, there would be no
3 less-than-lethal force options available.

4 Q. And officers are taught they have to make a
5 decision without the benefit of 20/20 hindsight in
6 tense, rapidly evolving situations under split-second
7 decision-making. Is that correct?

8 A. All but with the caveat on the 20/20 hindsight
9 is that all use-of-force investigations, including this
10 one, are properly reviewed to determine if the force was
11 reasonable and the tactics and actions preceding the use
12 of force were reasonable and appropriate based on the
13 totality of the circumstances.

14 Q. And in fact that was what was determined by
15 both the Shasta Sheriff's Department and the district
16 attorney in this case, correct?

17 A. I don't -- didn't receive either of their
18 findings, so I don't know, Counsel.

19 Q. We would agree that it is still in the province
20 of a jury in a civil lawsuit, and it doesn't matter what
21 they determine, correct?

22 A. Correct.

23 Q. And this is commonly called the Graham factors?

24 A. Yes.

25 Q. And -- but in fact, under the learning domain

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1 A. Correct.

2 Q. In this case, Maxwell firing seven shots is --
3 in a second and a half, is that an appropriate response
4 as he perceived the need to stop a deadly threat?

5 A. No.

6 Q. Is there a number of shots he should have fired
7 versus the seven that he did fire that would be
8 appropriate if he correctly perceived there was a deadly
9 threat to Officer Bruce?

10 A. Well, based on the clarification because I do
11 not -- no, I don't believe any of the shots were
12 reasonable.

13 Q. No, I understand that. You don't believe that
14 they should have -- he should have fired -- let me
15 correct that.

16 You -- it is your opinion Officer Maxwell never
17 should have used lethal force on Ms. Hernandez under the
18 circumstances that you reviewed?

19 A. Correct. And the -- from 1:40 on, it is
20 apparent he fires two rounds -- from what I can see. I
21 did not do a reconstruction, just watching the video and
22 slowing it down -- into the driver compartment of where
23 Ms. Hernandez was seated. And then he continues to fire
24 five additional rounds.

25 And it is clear at the point after the second

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1 round, just by the movement that -- it is clear that the
2 vehicle was not on top of Mister -- pardon me, Officer
3 Bruce, and there were five additional rounds fired from
4 that point.

5 So I think obviously you only can use the
6 reasonable amount of force when the subject's level of
7 resistance, which only way you can use lethal force is
8 if it life threatening, immediate threat of life, exists
9 at the time you fire. You just can't continue to fire
10 because at one point you perceived that a lethal threat
11 exists.

12 Q. Right. I'm going to break that down. I want
13 to make sure we are on the same page here.

14 He fired a total of seven shots. Your --
15 you're distinguishing two shots and then five shots. Do
16 I understand that correctly?

17 A. Yes.

18 Q. All right. And we are working off the
19 presumption already that your opinion is that he never
20 should have used lethal force. So I'm now focusing on
21 why he believed he should use lethal force. So with
22 that understanding, how long did it take him to fire the
23 first two shots?

24 A. All the shots were fired within two seconds.

25 Q. All right. You have not done any forensic

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1 analysis to break down the timeline of the shots, that
2 is first two shots in four-tenths of a second, there is
3 a three-tenths of a second pause, and five shots in 1.3
4 seconds or something like that. I'm just using that as
5 an example. You haven't done that kind of a breakdown
6 have you?

7 A. I have not.

8 Q. And you say that at -- after the first two
9 shots, whatever that timeline was, there is evidence
10 that you could see that the threat had stopped and was
11 no longer -- the car was no longer a deadly threat or
12 threat of grievous bodily injury to Officer Bruce?

13 A. Yes. Once again, with the caveat that I didn't
14 believe it was a deadly threat preceding the two shots.

15 Q. You don't have to keep repeating it. It is
16 well documented in the record. What I want to do is get
17 your testimony directly to my question because it will
18 be an issue for the court to decide whether it has
19 evidentiary value.

20 And to shorten our depo, I accept this shooting
21 shouldn't have occurred. That is your opinion. You
22 don't have to repeat it every time. If you'll humor me
23 so we can wrap the depo up. So I will repeat my
24 question.

25 As I understand your testimony, there is a

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1 pause at some point but -- there is some form of a pause
2 after two shots. What evidence do you have that the
3 pause was a result or should have been seen by Officer
4 Maxwell -- Corporal Maxwell, to mean the threat of the
5 car running over Officer Bruce on the ground had
6 stopped?

7 A. Based on my review of the video, it appears
8 right at 1:40, it is clear just on the positioning and
9 the angle of the video, maybe because the phone moved or
10 whatever it may have been, that I can see now that there
11 is nothing underneath that tire, that being nothing as
12 in Officer Bruce.

13 And he still continued to fire five rounds at
14 that point of once I could see, based on the video, that
15 Officer Bruce was not underneath the car or being pinned
16 by the vehicle in any way.

17 Q. All right. Thank you.

18 With respect to that video, have you done
19 anything forensically to break down the video to
20 determine a timeline in tenths of a second?

21 A. No.

22 Q. Have you done any forensic work on the video to
23 determine whether or not the vehicle was in a position
24 where it could still roll over Officer Bruce -- well,
25 just roll over Officer Bruce on some portion of his

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1 body?

2 A. No.

3 Q. That would be part of an accident

4 reconstructive forensic analysis of the path of the

5 vehicle or potential paths of the vehicle as it started

6 to move. Would you agree?

7 A. Yes, sir.

8 Q. Okay. And you don't have any of that

9 information -- I'm sorry. Shouldn't say that. You have

10 not reviewed any information that details the path of

11 that car as created by the accident reconstruction

12 expert, Dr. Rajeev Kelker. Is that correct?

13 A. Correct.

14 Q. But had that -- you would agree -- you've

15 testified already. I just want to make sure we are

16 clear, clear sentences, hopefully short sentences. You

17 would agree a car can pose a lethal threat by running

18 over somebody's body depending upon where the car rolls

19 over the body?

20 A. Yes.

21 Q. For example, based on your training and, sadly,

22 your experience, as was mine, you have visited the

23 scenes of grievous bodily injury and death to people who

24 have been struck or rolled over by cars?

25 A. Correct.

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REPORTER'S CERTIFICATION

I, ASHLEY L. PROXMIRE, do hereby certify:

That I am a licensed Certified Shorthand Reporter, duly qualified and certified as such by the State of California.

That prior to being examined, the witness named in the foregoing deposition was duly sworn to testify under oath.

That the preceding deposition was recorded stenographically by me at the time and place herein mentioned; and that the preceding pages constitute a complete and accurate record of the testimony given by the aforementioned witness.

That I am a neutral party, in no way interested in the outcome of said action, and that I am not related to or otherwise connected with any of the parties involved with this matter or their respective counsel.

Dated: May 3, 2024



ASHLEY L. PROXMIRE, CSR No. 13664

EXHIBIT “J”

1 UNITED STATES DISTRICT COURT

2 EASTERN DISTRICT OF CALIFORNIA

3

4 VERONICA MCLEOD, individually and as)
successor in interest to decedent,)
5 DOLORES HERNANDEZ; AMADO HERNANDEZ,)
individually and as successor in)
6 interest to decedent, DOLORES)
HERNANDEZ; and YSIDRA REGALDO,)
7 individually,)

8 Plaintiffs,)

9 vs.)

10 CITY OF REDDING; GARETT MAXWELL,)
an individual; and DOES 1-10,)
11 inclusive,)

12 Defendants.)

13

14

15

16 REMOTE VIDEOCONFERENCE DEPOSITION OF

17 MATTHEW BRUCE

18 THURSDAY, APRIL 27, 2023

19

20

21

22

23 Reported Stenographically By:

24 Jinna Grace Kim, CSR No. 14151

25 Job No.: 450075

Case No.
2:22-CV-00585-WBS-JDP

1 UNITED STATES DISTRICT COURT

2 EASTERN DISTRICT OF CALIFORNIA

3

4 VERONICA MCLEOD, individually and as)
 sucesor in interest to decedent,)
 5 DOLORES HERNANDEZ; AMADO HERNANDEZ,)
 individually and as successor in)
 6 interest to decedent, DOLORES)
 HERNANDEZ; and YSIDRA REGALDO,)
 7 individually,)

8 Plaintiffs,)

9 vs.)

10 CITY OF REDDING; GARETT MAXWELL,)
 an individual; and DOES 1-10,)
 11 inclusive,)

12 Defendants.)

13

14

15

16 The remote videoconference deposition of MATTHEW

17 BRUCE, taken on behalf of the Plaintiffs, beginning at 2:42

18 p.m., and ending at 4:32 p.m., on Thursday, April 27, 2023,

19 before Jinna Grace Kim, a Certified Stenographic Shorthand

20 Reporter No. 14151.

21

22

23

24

25

Case No.
 2:22-CV-00585-WBS-JDP

1 Q. Did you form the impression that this woman might be
2 having a mental health crisis when she started telling you
3 about murderers and Jesus and all that?

4 A. I -- I -- I couldn't agree that the statements that
5 she made were odd and troubling, but mental health crisis,
6 it's hard -- it's hard to say. There -- there -- there is a
7 lot of factors in a mental health crisis.

8 She could just be, you know, religious. I don't --
9 I don't really know. I was unable to tell at all what her
10 motivations or her, you know, I didn't really have much
11 information at all from her.

12 Q. And it appears from reading your statement that you
13 really didn't have an opportunity to assess her like you
14 normally would to see if they was under the influence of
15 drugs or alcohol; is that a fair statement?

16 A. That's a fair statement.

17 Q. Now, at some point did you see the car coming back
18 towards you?

19 A. I specifically recall seeing the headlights.

20 The -- the shopping center is -- is kind of a darker
21 shopping center. There is not a whole lot of streetlights.
22 And so as my kind of peripheral vision picked up a light
23 coming in, I turned and noticed the vehicle.

24 Q. And when you turned would you have turned back to
25 your left?

1 A. I don't know if I looked over my right shoulder or
2 left shoulder. I can't specifically say in what position I
3 was walking or I had looked away. I don't know if like I had
4 just turned my body and, you know, I really wasn't paying
5 that close of attention to my body position to know if I
6 looked to my right or my left. I just saw the headlight and
7 looked at what was -- when you -- when you see movement in
8 your peripheral vision, you kind of just turn and look into
9 it.

10 I -- I didn't really -- I don't recall whether it
11 was right or left or over the shoulder or how I had spotted
12 him.

13 Q. And when you looked, did you observe the car moving
14 forward in your direction?

15 A. Yes.

16 Q. And do you know at that point whether you were in
17 the parking space the car originally was in, or the next one
18 over?

19 A. I couldn't say for -- for 100 percent certainty,
20 certainty, but as I remember it, I was in the parking space
21 next to the one. I began walking east.

22 Q. Did you have an impression as to where your partner
23 was at that point?

24 A. I knew he was east of me.

25 Q. And would that be to your right?

1 A. So if I was looking at the -- if I was looking up at
2 the business which would be facing south like the vehicle
3 was, that would be to my left.

4 Q. Okay. But I got the impression that after the
5 vehicle started to turn, that you at some point -- started to
6 back up, you at some point turned and started walking more
7 north?

8 A. It would have been more I guess east, but --

9 Q. Okay --

10 A. So -- so there was a -- there was a parked car maybe
11 one or two spots down, and because that's all I could use for
12 reference right now. I don't stare at my feet when I walk.
13 So I couldn't tell you exactly where in the parking stalls I
14 was in reference to where I was standing originally. I just
15 know I started to move towards that parked car, and that
16 parked car is the area in which I had last saw my partner.
17 So I was just -- I was assuming or I saw him, and
18 that was the general direction that I was heading.

19 Q. And it the parked car that you're referring to a
20 parked car that would have been east of the space that the
21 woman's car was in?

22 A. Yes.

23 Q. Okay. With that one, at least one space in
24 between?

25 A. Yeah. At least one space in between.

1 Q. So did the car make contact with you when it moved
2 forward?

3 A. No. The initial time that it moved forward, it did
4 not.

5 Q. And when it moved forward, at some point did it come
6 to a stop again?

7 A. Yes.

8 Q. And was there an angle at that point?

9 A. Yes. When -- when it came back in initially and I
10 turned and spotted the headlights, I could see the front end
11 of the car, and it was -- and like I said, I'm just guessing
12 because I was more so focused on the vehicle than its actual
13 positioning on -- on the parking spaces, but as I remember
14 it, it was approximately probably less than 45, but maybe at
15 a 45-degree angle with the front of the vehicle facing me,
16 and I had jumped out of the way which would have been towards
17 the driver's side.

18 Or if I was -- it's hard to explain.

19 If I was standing where the license, front license
20 plate was, I would have gone north towards the driver side of
21 the vehicle to get out of the way.

22 Q. And did you move out of the way?

23 A. I did.

24 Q. And that was kind of a natural reaction?

25 A. Yes.

1 Q. And then did the vehicle momentarily stop?

2 A. Yes.

3 Q. And when it was stopped in that position, did you
4 approach the vehicle again?

5 A. I didn't approach the vehicle at that point.

6 I noticed the driver had two middle fingers up in
7 the air and was screaming. I couldn't hear what she was
8 scheming. Obviously, the music was turned up, but she, you
9 know, visibly was screaming, and I believe what she screamed
10 was, "Fuck you," and to middle fingers.

11 And then that's -- that's right at when the vehicle
12 stopped. I just stepped out of the way; vehicle stopped; she
13 gave me two middle fingers and said, "Fuck you," like
14 screamed it.

15 I obviously couldn't hear it, but you know how when
16 you see somebody yelling, you can read their lips and you
17 know what they're saying.

18 Q. Do you know if the window was up or down at that
19 point?

20 A. I don't recall if it was still cracked, but I know
21 it was up.

22 Q. So are you saying --

23 A. So it might have been still down two inches or it
24 might have been all the way up, but it was definitely up more
25 than three quarters of the way up.

1 Q. Okay. And then when you extended the baton, did you
2 strike it any additional times?

3 A. I never got to fully extend the baton.

4 Q. Do you know if the window cracked at all or had any
5 effect from you striking it?

6 A. I don't believe it did.

7 Q. Have you ever seen photographs of the window after
8 the incident?

9 A. I've never seen photographs of the window.

10 Q. Where was your left foot in relation to the driver's
11 side front tire of the vehicle when you were attempting to
12 smash the vehicle with your baton?

13 A. My left front foot would have been extended forward
14 of my body like a baseball swing stance.

15 Q. Do you know if your left foot was in the area of the
16 tire?

17 A. When I was standing next to the vehicle, I would
18 have placed myself directly in front of the door in which the
19 window I was striking. So I don't believe it was in front of
20 the tire when I was striking the window.

21 Q. Did the car go further in forward at that point?

22 A. I don't know if it was moving forward or backwards.
23 I was mainly focused on the window and stopping the
24 car.

25 Q. Do you know -- what I'm getting at, if you know,

1 Q. Okay. And do you know, in other words, did you have
2 a sense at the time how that happened, whether the car had
3 moved and that caused it to happen, and you were not sure?

4 A. I was not sure what happened, what brought me off my
5 feet, but I quickly figured out as the tire rolled over my
6 leg, what had happened.

7 Q. And what did you think had happened at that point?

8 A. I thought I was getting run over at that point.

9 Q. You thought the wheel went over a portion of your
10 body?

11 A. I could see the wheel on my leg.

12 Q. Okay. What portion of your leg was the wheel on at
13 that point?

14 A. At that point it -- I watched the wheel come -- I
15 remember pretty vividly the moment that I realized exactly
16 what position I was in, and I looked down at my left leg, and
17 I could see the tire cupping over my knee.

18 Q. Do you remember trying to back out of the way when
19 the car starting going in reverse?

20 A. Which time?

21 Q. I guess the first time it went in reverse, as I
22 understand it, you just watched it go about four or five feet
23 and then looked away?

24 A. Yes.

25 Q. The second time it went in reverse, if I'm

1 understanding your testimony, would be after you tried to
2 break the window with your baton?

3 A. I don't remember or recall if the vehicle was moving
4 when I was attempting to break the window. So I don't know
5 if it was going forward or backwards. I couldn't tell you.

6 I do know that when I saw it run over my leg, I knew
7 it was going backwards.

8 Q. And did it feel like it had grabbed your foot and
9 pulled you down?

10 A. It happened so quickly. I didn't know how I had
11 gotten pulled down, and then I saw the tire on my leg, and I
12 knew at that point.

13 Q. And were both of your legs together at that point?

14 A. They were next to each other, yeah.

15 Q. And was the tire essentially kind of on your knee or
16 a portion of your knee?

17 A. Yes. I believe it was -- it's kind of stopped
18 almost perfectly on the center of my knee, just above it.

19 Q. Would that be your left knee?

20 A. Left knee, yes.

21 Q. And at that point did the car -- was the car
22 stopped?

23 A. Yes. The car did stop on my knee.

24 Q. So I'm assuming you're hoping that the car didn't
25 move at that point?

1 A. Straight back, yeah.

2 Q. Right. That's assuming it went straight back, but
3 it didn't go straight back; correct?

4 A. Hindsight, yeah, it did not go straight back.

5 Q. Right. I mean do you think sometimes that if you
6 had not gone up to smash the window, then the car -- you
7 would have not ended up underneath the car as you did?

8 MR. ALLEN: Objection. Calls for speculation.

9 You have to answer the question, Matt.

10 THE WITNESS: Yeah. I'm -- I'm thinking about --
11 I'm thinking about my response.

12 Can you ask it one more time?

13 BY MR. GALIPO:

14 Q. Sure. Did you ever think after the fact that if you
15 had not gone up to smash her window or tried to smash her
16 window, you would not have been in that position?

17 And if the car went backwards the way it did, you
18 wouldn't have got pinned under the car?

19 A. Yeah. I think -- I think it's fair to say that in
20 what I was thinking, I would have never -- I would have
21 actually never thought that a vehicle would move in the
22 direction that it did. Instead of moving straight on or
23 straight back, it instead kind of curled around, and I would
24 have never anticipated that.

25 Q. When the vehicle moved forward, it was at an angle,

1 wasn't it?

2 A. It was at a 45-degree angle. So if -- if the
3 vehicle was at a 45-degree angle and it goes straight in and
4 straight out, I placed myself in the best position I could
5 think of to avoid getting struck by the car because it -- the
6 car turns on an axis here. So if it was to back up, then I
7 would be able to get out of the way because I was alongside
8 the vehicle instead of being in front of it or behind it.

9 Q. I understand that. But your impression was this
10 woman was somewhat agitated; is that fair?

11 A. Yeah. The two middle fingers and the -- and the
12 "fuck you" definitely led me to believe that she was
13 agitated.

14 Q. Did you, by the way, ever give her any gestures with
15 your hands like to stop or anything like that?

16 A. No.

17 Q. Did you ever consider that smashing or attempting to
18 smash someone's window who is already agitated may cause the
19 car to move forward or backwards to get out of the way of
20 having their window smashed?

21 A. I anticipated the vehicle moving forward or
22 backwards. That's why I stood where I should on the side of
23 the vehicle because I figured I was in the best place
24 tactically.

25 Q. So you're saying when you approached the vehicle on

1 the driver side to smash out the window, you anticipated it
2 could move forward or backwards with you in that position?

3 A. I anticipated that the vehicle would move forward or
4 backwards, and I would be alongside of it avoiding the
5 largest portion of the vehicle.

6 Q. Were you thinking that if the vehicle moved forward
7 or backwards while you were trying to smash out the window,
8 you would continue to try to smash out the window as the
9 vehicle was moving?

10 A. If I'm understanding your questioning correctly, did
11 I continue -- would -- it's -- it's hard for me to say
12 what -- what I would have done differently while keeping in
13 mind that my plan was simply just to break the window out and
14 to stop her.

15 And if you're asking me if I would have continued to
16 do that, had she been driving forward, yes. The answer's
17 yes. I would have advanced forward with the vehicle going
18 along it.

19 Q. And how about if it went backwards straight, the
20 same?

21 A. I felt like I was in the position that absolutely if
22 it went backwards, I would just go down along side it and
23 matched its angle.

24 Q. Did you know where your partner was when you were
25 smashing out the window or trying to?

1 Q. Okay. After she pulled forward towards you as you
2 described, the vehicle came to a stop; is that correct?

3 A. Yes, that's correct.

4 Q. And at that point in your mind, you did not want her
5 to drive any further?

6 A. Yes.

7 Q. And you're an experienced officer; right?

8 You've been an officer I guess at that time how many
9 years?

10 A. Ten or eleven, something like that, ten, eleven,
11 twelve.

12 Q. Okay --

13 A. Over ten years.

14 Q. Right. And is there a reason why prior to
15 approaching to smash her window, you didn't try to give her a
16 command or some gesture or something to let her know you
17 wanted her to stop?

18 A. I was purely focused on the task at hand.

19 Q. Right. But in terms of -- aren't officers trained
20 to give commands when they can?

21 A. When they can.

22 Q. And to give a person an opportunity to follow the
23 commands if it's safe to do so?

24 A. Yeah. In -- in -- in an academy atmosphere or in
25 a -- in a general arrest atmosphere where you have a

1 compliant subject, you often provide commands, put your hand
2 on top of your head, do this, and -- and -- and when all the
3 steps are followed, it works beautifully.

4 Q. Right. But you don't know whether the commands are
5 going to be followed or not; is that fair?

6 A. It's -- yeah. It's -- it's -- it's a gamble every
7 situation that we find ourselves in.

8 Q. Yeah. But the training is to give commands if you
9 can and give the person an opportunity to comply with the
10 commands if you can?

11 A. It you can. If the situation lends itself to
12 providing commands, and there are so many situations that do
13 not provide the opportunity to give commands, that action is
14 needed immediately, then you don't give commands; you take
15 action.

16 Q. And in this case when the car moved forward and
17 stopped, for whatever reason you decided not to give any
18 commands; is that fair?

19 A. That's fair.

20 Q. And you didn't give any gestures to the woman that
21 you wanted her to stop the car or anything like that; is that
22 also fair?

23 A. That's also fair.

24 Q. Your decision at the time was to go and break out
25 the window, and I guess try to reach into the car after

1 the way, do we know if she would have continued to run me
2 over into a parked car? I could easily say that in the
3 position that I was in, if I had turned my back all the way
4 to her and she had come in at that same angle with me
5 standing right there, she would have hit me and ran me into a
6 parked car.

7 There is a million things that were going through my
8 mind at that time, and in her actions and like you said, they
9 were odd actions. They were unexpected by me at all.

10 I thought honestly, that I was de-escalating the
11 situation. I waved goodbye to her. I felt that the best
12 solution to this entire event was her backing up and leaving,
13 and I was totally okay with it.

14 Q. But what I'm getting at is when the car came forward
15 again, it stopped at some point; correct?

16 A. After I had got out of the way.

17 Q. Right. But it didn't continue going into you or
18 turning left in you or into the next parked car; it did
19 stop --

20 A. If -- if she would have kept going, she would have
21 hit an unoccupied parked car.

22 Q. I know. But would you agree a least with me she
23 didn't keep going; she stopped?

24 A. She did stop after I got out of the way.

25 Q. Okay. That's fine --

1 CERTIFICATE
2 OF
3 CERTIFIED STENOGRAPHIC SHORTHAND REPORTER
4

5 I, JINNA GRACE KIM, CSR No. 14151, a Certified
6 Stenographic Shorthand Reporter of the State of California,
7 do hereby certify:

8 That the foregoing proceedings were taken before me
9 at the time and place herein set forth;

10 That any witnesses in the foregoing proceedings,
11 prior to testifying, were placed under oath;

12 That a verbatim record of the proceedings was made
13 by me, using machine shorthand, which was thereafter
14 transcribed under my direction;

15 Further, that the foregoing is an accurate
16 transcription thereof.

17 I further certify that I am neither financially
18 interested in the action, nor a relative or employee of any
19 attorney of any of the parties.
20

21 IN WITNESS WHEREOF, I have subscribed my name, this
22 date: April 27, 2023.

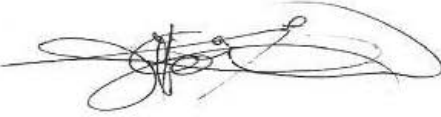
23 
24 _____
25 Jinna Grace Kim, CSR No. 14151

EXHIBIT “K”

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

VERONICA MCLEOD, individually)
and as successor in interest)
to decedent, DOLORES)
HERNANDEZ, AMADO HERNANADEZ;)
individually and as successor)
in interest to decedent,)
DOLORES HERNANDEZ; and)
YSIDRA REGALDO, individually,)

Plaintiffs,)

vs.)

CITY OF REDDING; GARRETT)
MAXWELL, an individual;)
MATTHEW BRUCE, an individual;)
and DOES 2-10, inclusive,)

Defendants,)

Case No.

2:22-cv-00586-WBS-JDP

ZOOM VIDEOTAPED DEPOSITION OF AIDEN PHILLIPS,
commencing at 1:06 p.m. PDT on Thursday, February 15,
2024, before KIMBERLY CRANE, Certified Shorthand
Reporter 11594, in and for the State of California.

01:18:02 1 standing next to it, were you in or out of your car?

2 A. I was in my vehicle.

3 Q. Was your car parked or were you driving?

4 A. We were heading out of the shopping center,

01:18:18 5 so we were driving.

6 Q. Okay. Just to get a reference, do you know
7 what direction you were traveling through the parking
8 lot?

9 A. I believe it was east heading towards the

01:18:28 10 exit.

11 Q. Okay. Do you know what street that exits
12 onto?

13 A. Dana.

14 Q. Is that Dana Road or Dana Drive?

01:18:38 15 A. Dana Drive, yeah.

16 Q. When you came across the officers, were they
17 standing next to the vehicle or were they some
18 distance from the vehicle?

19 A. They were standing right next to the

01:18:52 20 driver's side door, yeah.

21 Q. How many officers were there?

22 A. Just two.

23 Q. Can you describe to me in relation to this

24 car that you saw where each officer was standing?

01:19:01 25 A. I believe the furthest one from me was

01:19:03 1 standing closer to the driver's side mirror about,
2 and the one that was closer to us was standing about
3 where the door handle to the driver's side door was.
4 They were pretty close together.

01:19:17 5 Q. Okay. And approximately how far were you
6 from the officers when you first noticed them?

7 A. I would say we were about 30-ish feet from
8 the back of the vehicle.

9 Q. You said you were facing the back of the
01:19:35 10 vehicle, correct?

11 A. Yes, sir.

12 Q. At that time were your car windows rolled
13 down, either your front or back windows?

14 A. No. I believe they were all rolled up at
01:19:46 15 the time.

16 Q. Okay. When you first noticed the officers,
17 were you in the driver's seat or IN the passenger's
18 seat?

19 A. I was in the driver's seat.

01:19:57 20 Q. Okay. And it was only your aforementioned
21 roommate that was with you at the time in the car?

22 A. Yes, sir.

23 Q. Can you tell me what happened after you saw
24 the officers?

01:20:06 25 A. Yeah. We looked up and it all happened

01:34:03 1 legs -- scratch that.

2 When the car ran over his legs, what
3 direction was the car traveling? Was it traveling
4 forwards or rearwards?

01:34:17 5 A. Rearwards.

6 Q. Okay. And at that point did it fully drive
7 over that officer's body or was it stopped on top of
8 his body or how was it positioned in relation to his
9 body?

01:34:32 10 A. It looked like it went completely over.

11 Q. So was the officer pinned under the vehicle
12 at any point with the vehicle stopped on top of him?

13 A. Not that I remember.

14 Q. What do you recall the vehicle doing after
01:34:48 15 it had run over the officer's legs?

16 A. It had stopped I would assume to go back
17 into drive to go forward, but that's when the shots
18 were fired so that was the last movement it made.

19 Q. So the first and last movement it made was
01:35:02 20 it moving forward that the vehicle was making at that
21 time?

22 A. It was the reverse movement was the last
23 one.

24 Q. Okay. So after the shots were fired by the
01:35:19 25 firing officer, the vehicle did not move forward at

1 STATE OF CALIFORNIA)

2 : SS.

3 COUNTY OF SAN DIEGO)

4
5 I, Kimberly Crane, in and for the County of
6 San Diego, do hereby certify:

7 That as such reporter, I reported in
8 machine shorthand the videoconference proceedings
9 held in the foregoing case;

10 That my notes were transcribed into
11 typewriting under my direction, and the proceedings
12 held on Thursday, February 15, 2024, contained within
13 pages 1 through 47, are a true and correct
14 transcription.

15 Dated this 19th day of March, 2024.

16
17
18 

19 Kimberly Crane, CSR No. 11594
20
21
22
23
24
25

EXHIBIT “L”

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LEGAL VIDEOGRAPHER:

THOMAS MCDONOUGH
Steno Agency
concierge@steno.com

---oOo---

01:34:24 1 A. Yeah. I would say put it in reverse and wasn't going
01:34:29 2 slow. I mean, obviously had intentions of getting out
01:34:32 3 of there in a hurry.

01:34:37 4 Q. Okay. And did you see the reverse indicator lights on
01:34:41 5 the woman's car come on when it started to back up?

01:34:46 6 A. Yes, sir.

01:34:47 7 Q. Okay. Okay. And did that officer that got hit by the
01:34:55 8 woman's car fall to the ground?

01:34:57 9 A. Yes, sir.

01:35:00 10 Q. Okay. Did you see that driver's side front tire roll
01:35:04 11 over the officer?

01:35:06 12 A. Yes, sir. I did.

01:35:08 13 Q. Okay. And when it rolled over the officer, did the car
01:35:11 14 stop on the officer at any point?

01:35:13 15 A. No, sir. It rolled right off.

01:35:20 16 Q. Okay. So there was no point in time where the car
01:35:25 17 stopped or slowed down even while it was running over
01:35:28 18 that officer's body?

01:35:29 19 A. It ran over it and then right when it got off of it, it
01:35:34 20 kind of halted to a stop.

01:35:37 21 Q. Okay. And when it halted to a stop, it had driven over
01:35:41 22 the officer's portion of -- whatever portion of the
01:35:44 23 body of the officer that had been run over; is that
01:35:47 24 correct?

01:35:47 25 A. Yes, sir.

02:23:34 1 BY MR. PATEL:

02:23:34 2 Q. You can answer, Richard, if you have a response.

02:23:38 3 A. Oh, um, it -- it very well could have, but from where I

02:23:44 4 was sitting and from where I could see, I would say he

02:23:49 5 was out of the way enough to not get ran over again.

02:24:09 6 Q. All right. Give me one second. Just looking over my

02:24:14 7 notes.

02:24:17 8 Okay. Richard, give me one second, okay?

02:24:19 9 A. Yes, sir.

02:24:21 10 MR. PATEL: All right. Everyone, is it okay

02:24:25 11 if we go off the record real quick so I can take a look

02:24:28 12 at my notes and get an exhibit ready?

02:24:31 13 MS. LE: Sure, no problem.

02:24:32 14 MR. PATEL: Thank you.

02:24:32 15 THE VIDEOGRAPHER: All right. The time is

02:24:34 16 2:24 p.m. Pacific Time. We are now off the record.

02:24:37 17 (Off the record.)

02:24:37 18 (On the record.)

02:30:04 19 THE VIDEOGRAPHER: The time is 2:30 p.m.

02:30:08 20 Pacific Time and we are now back on the record.

02:30:10 21 BY MR. PATEL:

02:30:11 22 Q. Richard, do you recall that exhibit that I had you take

02:30:14 23 a look at where I circled where you believed your car

02:30:19 24 was located when you stopped when you witnessed this

02:30:21 25 incident?

02:30:21 1 A. Yes, sir.

02:30:22 2 Q. Okay. How far away from the woman's car and the

02:30:26 3 officers would you say that was, approximately?

02:30:30 4 A. I'd probably say 10 or 15 feet.

02:30:33 5 Q. Okay. And earlier, you mentioned something about

02:30:37 6 another vehicle, tinted windows that somewhat

02:30:41 7 obstructed your view; is that correct?

02:30:43 8 A. Yes, sir.

02:30:43 9 Q. Okay. Was that vehicle -- did that vehicle at all play

02:30:48 10 a role in obstructing your view at the time that you

02:30:51 11 saw this officer on the ground crawling away?

02:30:56 12 A. No, sir.

02:30:57 13 Q. Okay. Okay. And can you describe the angle of the

02:31:12 14 woman's car again as it moved forward and -- I'm sorry.

02:31:18 15 Let me ask you a different question.

02:31:20 16 Can you describe the angle of the woman's car as

02:31:24 17 this officer on the ground was moving away from the

02:31:29 18 car?

02:31:31 19 A. The direction of the car?

02:31:33 20 Q. Yeah, the direction of the woman's car. Which way was

02:31:36 21 it facing?

02:31:37 22 A. It was -- I would say southeast.

02:31:40 23 (Exhibit No. 2 marked for

02:31:40 24 identification.)

25 ///

RICHARD BELL
FEBRUARY 27, 2024

JOB NO. 881053

CERTIFICATE OF REPORTER

I, APRIL D. BIEDERMANN, Washington State Certified Court Reporter and NCRA Registered Skilled Reporter, do hereby declare:

That prior to being examined, the witness named in the foregoing deposition was by me duly sworn pursuant to Section 30(f)(1) of the Federal Rules of Civil Procedure and the deposition is a true record of the testimony given by the witness.

That said deposition was taken down by me in shorthand at the time and place therein named and thereafter reduced to text under my direction.

XX That the witness requested to review the transcript and make any changes to the transcript as a result of that review pursuant to Section 30(e) of the Federal Rules of Civil Procedure.

Signature is waived.

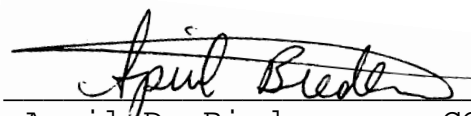
The changes made by the witness are appended to the transcript.

No request was made that the transcript be reviewed pursuant to Section 30(e) of the Federal Rules of Civil Procedure.

I further declare that I have no interest in the event or the action.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Witness my hand this 14th day of March, 2024.



April D. Biedermann, CCR, RSR
WA CCR No. 21028823